

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal application No. 6772 OF 2005

Office Notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders. Court's or Judge's  
orders

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Mr. V. B. Konde Deshmukh APP for applicant.

CORAM: **B.H. MARLAPALLE**

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SMT. R.S. DALVI JJ.

DATE:19/1/2006

P.C.:

Heard learned APP. This is an application seeking leave under section 378(3) Cr. P.C., for filing an appeal against the order of acquittal dated 21.4.2005 passed by the learned IV Ad-hoc Additional Sessions Judge, Solapur, in Sessions Case No. 318 of 2003. All the five accused were acquitted for the offence punishable under sections 147, 148, 149, 326 read with 149, 307 r.w. Section 149 IPC and section 135 of the Bombay Police Act. The said

order of acquittal has been challenged by the State.

We have considered the reasoning set out by the learned Judge, more particularly the C.A. Report, the medical evidence in respect of the injuries sustained by P.W. Bharat and his brother P.W. Popat as well as the injuries sustained by the three accused. The evidence of the eye- witnesses could not be corroborated by the medical evidence and the C.A. Report inasmuch as it could not be ascertained that the blood found on the weapons used was that of P.W. Bharat and /or P.W. Popat. In addition, the learned Judge has considered the testimony of defence witnesses viz., D.W. 1 and D.W. 2. The evidence of P.W. 5 could not be relied upon to hold that the offences against the accused were proved beyond reasonable doubt, as noted by the learned Judge. We are therefore, satisfied that this is not a fit case to grant leave under section 378(3) Cr. P.C. Hence leave is hereby refused.

(SMT.R.S. DALVI J.) (B.H.MARLAPALLE J.)